

REMARKS

Claims 39-56, 58, and 59 are pending in this application. Reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested in view of this amendment and the following reasons. Claims 39, 48, and 58 have been amended to recite the claimed subject matter more clearly. Support for the amended features may be found at least in Fig. 1 and its corresponding descriptions on page 6, line 15 to page 7, line 17; and Figs. 6A and 6B and its corresponding descriptions on page 28, lines 1-6 of the present application as originally filed.

It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132. Accordingly, Applicant requests reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Interview Summary

Applicant gratefully acknowledge a personal interview of March 9, 2010, between the Examiner, SPE, inventor, and Applicant's attorney and agent, in which it was agreed that adding the features as recited in amended claim 39 would render the claimed subject matter allowable over the cited art should no additional prior art be found as a result of further search. Applicant notes this agreement with appreciation, and request that the present rejections be withdrawn in view of the amendments presented herewith.

Rejections Under 35 U.S.C. §112

Claim 39 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, it is stated that “[r]egarding claim 39, ‘an incremental screen protocol’ in line 6 causes the claim to be vague and indefinite. ‘An incremental screen protocol’ is introduced in line 2 of the claim. It is not clear if the ‘screen protocol’ of line 6, is the same protocol introduced in line 2, or if Applicant is introducing a second protocol” (Office Action, page 4, section 5).

Claim 39 has been amended to replace “an incremental screen protocol” recited in line 6 with -- the incremental screen protocol --. By this amendment, Applicant believes this rejection of claim 39 is obviated. Accordingly, claim 39 is clear and definite within the meaning of 35 U.S.C. §112, second paragraph. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §112, second paragraph rejection of claim 39.

Rejections Under 35 U.S.C. §101

Claims 39-47 and 58 stand rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Particularly, the Examiner asserts the following:

- (1) Regarding claims 39-47, it is possible for all of the limitations in the body of the claims to be completed by software. Thus, a broadest possible interpretation of the claims includes software, per se, which is not patentable subject matter.

Applicant can overcome this rejection by including some computer hardware in the body of the claims.

- (2) Regarding claim 58, this claim is directed toward a computer useable medium. Applicant has not limited this “medium,” in the claims nor in the specification, to a physical medium. Thus, a broadest possible interpretation of the claimed “medium” has to include carrier waves and transitory signals, which are not statutory subject matter. Applicant can overcome this rejection by including some tangible computer useable medium in the claim, or in the specification.

As to the first reason for rejection, Applicant notes that claim 39 has been amended to include computer hardware in compliance with the Examiner’s suggestion. Specifically, claim 39 has been amended to recite -- a data storage unit comprising a non-transitory computer-readable medium accessible thereto for storing the data indicative of sessions and being indicative of the incremental screen protocol --. By this amendment, Applicant believes this rejection of claim 39 is obviated. Claims 40-47 depend from claim 39 and thus are allowable for at least this reason.

As to the second reason for rejection, Applicant notes that claim 58 has been amended to include tangible computer useable medium in compliance with the Examiner’s suggestion. Specifically, claim 58 has been amended to recite -- a second non-transitory computer-readable medium storing computer readable program code embodied therein --.

By this amendment, Applicant believes this rejection of claim 58 is obviated.

Accordingly, Applicant respectfully submits that amended claims 39-47 and 58 are directed to statutory subject matter. Thus, Applicant respectfully requests withdrawal of the 35 U.S.C. §101 rejection of claims 39-47 and 58.

Rejections Under 35 U.S.C. §102

Claims 39-44, 46-53, 55, 56, 58, and 59 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,415,509 issued to Kaltenmark, *et al.* (“Kaltenmark”).

“Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W.L. Gore & Assocs. V. Garlock*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

Applicant respectfully submits that Kaltenmark fails to disclose each and every feature recited in claim 39. Specifically, claim 39, as amended, recites, *inter alia*:

- a) an analyzer being configured to analyze intercepted packets, wherein said packets are conveyed ***between entities*** in the network ***other than the apparatus***, and being configured to generate analyzed data based on information associated with at least some of said packets, the analyzed data being indicative of sessions and being indicative of the incremental screen protocol used in each of said sessions;
- b) a mirror manager being ***incrementally updated to reflect a most recent change in an on-screen field location of data*** responsive to the intercepted packets; (Emphasis added)

Kaltenmark is directed to an operation architecture for a netcentric computing system including a server connected with a client. The Office Action concludes that column

5, lines 29-35 of Kaltenmark teaches the “analyzer” recited in claim 39 (see page 5, section 2, line 7). In Kaltenmark, an application server 18 is to manage the logical flow of transactions and keep track of the state of sessions by directly receiving data packets that are sent from a client 14 to the application server 18. In other words, according to the Kaltenmark teachings, the data packets are intended to be sent to the application server 18 from the client 14. Thus, the application server 18 does not analyze *intercepted* packets, which are conveyed between *third entities* in the network. Accordingly, it is clear that Kaltenmark fails to teach the analyzer “configured to analyze intercepted packets, wherein *said packets are conveyed between entities in the network other than the apparatus,*” recited in claim 39 as amended (emphasis added).

The Examiner asserts that the “mirror manager” of claim 39 is taught by Kaltenmark, column 20, lines 62-65 and in the reference the “management data” is the mirror data. In Kaltenmark, however, it is not taught that the management data are incrementally updated to reflect a most recent change in an on-screen field location of data. Thus, it is clear that Kaltenmark fails to teach or suggest a mirror manager “*incrementally updated to reflect a most recent change in an on-screen field location of data* responsive to the intercepted packets,” recited in claim 39 as amended (emphasis added).

Since Kaltenmark fails to teach each and every feature recited in claim 39, the reference does not anticipate the subject matter of claim 39. Thus, Applicant respectfully submits that claim 39 is allowable over Kaltenmark.

Claim 48 is directed to a method of monitoring and auditing activity in a network,

reciting similar features as those of claim 39 recited above, and thus is allowable for at least this reason. Claims 40-44, 46, 47, 49-53, 55, 56, 58, and 59 depend from claim 39 or 48, and thus are allowable for at least this reason. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §102(e) rejection of claims 39-44, 46-53, 55, 56, 58, and 59.

Rejections Under 35 U.S.C. §103

Claims 45 and 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kaltenmark in view of U.S. Patent No. 5,790,798 issued to Beckett, II, *et al.* ("Beckett").

Claims 45 and 54 depend from claims 39 and 48, respectively. Beckett was cited by the Examiner in an attempt to teach the additional features of the dependent claims, i.e., "a compression agent for compressing at least part of the mirror data representative of mirror sessions," but fail to cure the deficiencies of Kaltenmark noted above with regard to claims 39 and 48. Thus, even if one of ordinary skill in the art happens to combine the teachings of Kaltenmark and Beckett, the combined references still do not teach or suggest all of the features of claim 45 or 54. Hence, claims 45 and 54 are allowable at least because they depend from allowable claims 39 and 48, respectively. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. §103(a) rejection of claims 45 and 54.

CONCLUSION

Applicant believes that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated grounds for rejection have been overcome or rendered moot. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant's undersigned representative at the number below to expedite prosecution.

If an extension of time is necessary to prevent abandonment of this application and is not filed herewith, then such extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 14-0112. Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,
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